

FOR THE DISTRICT OF NEW MEXICO

Defendant.

I N D E X

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SPECIAL AGENT JARRELL WAYNE PERRY

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DEFENDANT'S A Greyhound Passenger Lists 8

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1 (In Open Court at 3:05 P.M.)

2 THE COURT: We're in session in United States vs.
3 Dulce Isabel Ramos-Burciaga, 17-CR-2236.

4 would counsel enter their appearances, please.

5 MS. LONG: Good afternoon, Your Honor. Shana Long
6 for the United States. At counsel table is Special Agent
7 Jarrell Perry with the DEA.

8 MR. FERNANDEZ: And Your Honor, Alejandro Fernandez
9 for Ms. Ramos-Burciaga, who is present.

10 THE COURT: All right. I have granted, or I'm
11 allowing some limited additional cross-examination by defense
12 counsel today of Agent Perry in light of issues regarding that
13 passenger manifest. So, how did you want to proceed?

14 MR. FERNANDEZ: Your Honor, briefly, before we touch
15 that, I had brought up the issue of Jencks material before Your
16 Honor correctly pointed out that I'm not entitled to Jencks
17 until trial. Rule 26.2, however, is a substantially similar
18 provision that does specifically say that at a suppression
19 hearing, the defense is entitled to any previous statements of
20 the witness. So I just want to make sure that any previous
21 statements of Agent Perry have been turned over, any
22 contemporaneous notes that would be substantially verbatim.
23 And if there's a question, that they are submitted to the Court
24 to make sure that Your Honor is able to make any
25 determinations. And any Grand Jury testimony that was given,

1 that that be given over.

2 I don't think that that would hinder our forward
3 movement today, because as Your Honor pointed out, there is a
4 limited scope to this hearing. I would just ask that those
5 things be handed over so that in case there is something wildly
6 different, I can bring that to the Court's attention. But I
7 don't think that should effect what's happening today.

8 MS. LONG: Your Honor, having taken over this case
9 from former counsel, it just struck me as Mr. Fernandez was
10 talking that I assumed that we had provided the Grand Jury
11 testimony for Special Agent Perry prior to the suppression
12 hearing in this case, which is standard practice. So I'll let
13 Mr. Fernandez speak to that. But other than that, we would
14 have no additional Jencks to turn over.

15 MR. FERNANDEZ: I don't think I got it. Just to
16 double-check, I asked my assistant on the way here whether or
17 not she had seen it in the discovery. She said she didn't. My
18 assumption is that the Grand Jury testimony would be largely
19 what was already testified to at the suppression hearing, which
20 is not the area that the Court permitted us to go into for
21 today's hearing. I would just be making sure that there's no
22 additional arguments I would have to make.

23 THE COURT: What's the United States' standard
24 practice with respect to Grand Jury material?

25 MS. LONG: Your Honor, we don't owe it. As you

1 mentioned, Jencks is a trial right. Prior to any testimony,
2 though, at a suppression hearing, we typically do produce just
3 the agent's testimony at Grand Jury, prior to that.

4 I think that for purposes of today's hearing, there
5 would have been nothing related to the passenger list and how
6 Agent Perry used that list elicited at Grand Jury, because it's
7 irrelevant to the consensual encounter. So to the extent the
8 scope of today's hearing is solely on that issue, I don't think
9 that there's any issue with respect to Agent Perry testifying.

10 I apologize. I did not realize Mr. Fernandez had not
11 received the Grand Jury testimony prior to this. That's
12 something that typically we would have produced prior to the
13 suppression hearing in August.

14 THE COURT: After today's hearing, if there is Grand
15 Jury testimony that you would normally have produced, would you
16 go ahead and send it over?

17 MS. LONG: Yes, sir.

18 THE COURT: And we'll see what happens. I'm
19 beginning to think -- I'm glad your appearance is entered in
20 this case now. Hopefully this case can move along.

21 So with that, this is a limited discussion. Are you
22 ready to go ahead and cross-examine?

23 MR. FERNANDEZ: Yes, Your Honor, with one thing.
24 would you allow Ms. Ramos-Burciaga to take notes?

25 THE COURT: Yes. Is she left or right-handed?

1 MR. FERNANDEZ: Right-handed.

2 THE COURT: All right.

3 Go ahead, Agent Perry, and I'll ask the Clerk of the
4 Court to administer the oath.

5 (SPECIAL AGENT JARRELL WAYNE PERRY SWORN)

6 MR. GARCIA: Please have a seat and state your full
7 name for the record, sir.

8 THE WITNESS: My name is Jarrell Wayne Perry.

9 THE COURT: Just one second.

10 (A discussion was held off the record.)

11 THE COURT: Go ahead.

12 MR. FERNANDEZ: Thank you.

13 CROSS-EXAMINATION

14 BY MR. FERNANDEZ:

15 Q. Agent Perry, you're aware that today's hearing has a
16 limited scope?

17 A. Yes. I did read Judge Johnson's order.

18 Q. You're aware that today's hearing has to do with the
19 passenger lists that you obtained in this case?

20 A. I believe that's part of it, yes, sir.

21 Q. And also about the conversations you had with AUSA Armijo
22 regarding those passenger lists?

23 A. Yes, sir.

24 Q. I'm going to hand up to you what I'm going to be asked to
25 be marked as Defendant's Exhibit A for identification. That is

1 a passenger list?

2 A. Yes, sir. That's what I refer to it as, yes, a passenger
3 list.

4 THE COURT: Can I ask a real quick question?

5 MR. FERNANDEZ: Yes.

6 THE COURT: When you say passenger list, sometimes
7 I've heard terminology passenger manifest. To your knowledge,
8 is that the same, to you?

9 THE WITNESS: Yes, Your Honor. Maybe to be more
10 specific, the train, the Amtrak train, has a manifest.

11 THE COURT: All right, so I'm thinking of Amtrak.

12 THE WITNESS: The only reason I call this a passenger
13 list is if you look down, oh, right before the names start, it
14 has the words Passenger List. So that's just what I've always
15 referred to it as.

16 THE COURT: So, typically is the passenger list
17 associated with Greyhound, and then the term passenger manifest
18 is associated with Amtrak, the train?

19 THE WITNESS: Yes, sir.

20 THE COURT: All right. I just wanted that clarified
21 in my mind. I'm sorry for interrupting. Go ahead.

22 MR. FERNANDEZ: I was going to wait to ask whether I
23 could hand up the list to Your Honor, until I had it admitted,
24 but --

25 THE COURT: I've already got a copy right here.

1 MR. FERNANDEZ: So Your Honor has a copy? Okay.

2 THE COURT: I'm assuming there's no objection to this
3 being admitted for purposes of this hearing?

4 MS. LONG: No, Your Honor.

5 THE COURT: Okay. Then go ahead and offer it. Did
6 he identify it?

7 MR. FERNANDEZ: He said it was a passenger list, and
8 he said it was the list that he received in this case.

9 THE COURT: All right. Then how do you want to
10 identify it, what exhibit?

11 MR. FERNANDEZ: Defendant's A.

12 THE COURT: All right. Defendant's Exhibit A, the
13 passenger list, will be admitted without objection for purposes
14 of this hearing.

15 (Defendant's Exhibit No. A admitted.)

16 BY MR. FERNANDEZ:

17 Q. The list that's before you, that's the exact list that you
18 received on August 4, 2017?

19 A. To my knowledge, yes.

20 Q. And when you got it, it had the markings on it as they
21 appear on that page?

22 A. Yes, sir.

23 Q. And it's the entire document that you received on
24 August 4, 2017?

25 A. Yes. It's two pages.

1 Q. I wanted to discuss with you the timing of these reports.
2 On the very top left-hand corner, there's a date, August 4,
3 2017, that's listed. Is that right?

4 A. Yes. You're talking about on Page 1?

5 Q. Well, the pages aren't numbered, but I'm going to go into
6 that. Let's say that on top of both of them, August 4, 2017,
7 on the very top left, is listed.

8 A. Yes. One of them has a different time. That's why I was
9 asking.

10 Q. That's right. So one has 12:28 P.M., and the other has
11 12:29 P.M.?

12 A. Yes, sir.

13 Q. And MST, both of them?

14 A. Yes, sir.

15 Q. Do you understand that to be Mountain Standard Time?

16 A. That would be my guess, yes, sir.

17 Q. And looking at the one that says 12:29 P.M., it says,
18 "Report Origin, Glendale" at the top?

19 A. Yes, sir.

20 Q. 12:29 P.M. is about an hour after the bus left Glendale
21 that day; is that correct?

22 A. I don't know what time the bus left Glendale on that date.

23 Q. At the very bottom, it says, "Glendale, Arizona, depart
24 11:25." Do you know that to be accurate?

25 A. I don't know what -- that was 2017. I don't know if the

1 bus left on time or not. But that's what time it's scheduled
2 to depart.

3 Q. So 12:29 is about an hour after the bus is scheduled to
4 depart?

5 A. An hour and four minutes, if my math is correct.

6 Q. I would agree with that. And then 12:28, the one that
7 says 12:28 on the top left --

8 A. Yes, sir.

9 Q. -- it says, "Report Origin, Phoenix"?

10 A. Yes, sir.

11 Q. And that bus was scheduled to leave at 11:00?

12 A. Yes, sir, that's correct.

13 Q. So that report came about an hour and 28 minutes after the
14 bus was scheduled to leave?

15 A. Can you repeat the question again?

16 Q. Sure. The August 4, 2017, 12:28 P.M., or 12:28P, that's
17 the time the report was generated?

18 A. I don't know what that top left number is. I have no
19 idea.

20 Q. You have no idea what that is?

21 A. I don't know what those two numbers -- I mean, obviously
22 it's a date and a time, but I don't if it's when it was
23 generated, or -- I don't know what that is.

24 Q. Do you have any idea, if it's not the time it was
25 generated, what it might be?

1 A. I do not know.

2 Q. Well, we'll say this. The bus was scheduled to leave
3 Phoenix at 11:00.

4 A. That's what time it was scheduled to depart, yes, sir.

5 Q. But you don't know if it left on time?

6 A. I do not.

7 Q. And both these buses -- excuse me. Let me step back.

8 Do you have any independent recollection or any way of
9 knowing when these reports were generated?

10 A. I do not know.

11 Q. Do you know how you got them?

12 A. Yes, I know how I received them.

13 Q. And how is that?

14 A. Generally by e-mail.

15 Q. And so there's a time stamp on the e-mail; is that right?

16 A. I would assume so, yes, sir.

17 Q. And you don't remember when you got that e-mail?

18 A. No, I do not.

19 Q. Do you still have that e-mail?

20 A. No, I do not.

21 Q. So it's fair to say that you got these reports before the
22 bus arrived in Albuquerque?

23 A. Yes, I did. When you say reports, I refer to this as the
24 same report. It's for one bus.

25 Q. Okay, I'll get into that. The reason I'm saying different

1 reports is because they have different information on it. But
2 we can call it one report.

3 At some point, you were asked by AUSA Armijo whether or
4 not you had a passenger list in this case?

5 A. I don't know if he specifically asked me, but I told him
6 that I had a passenger list. I don't know if he asked me that
7 exact question, but I informed him that I had a passenger list.

8 Q. And you were asked to get a copy of the passenger manifest
9 -- passenger list?

10 A. Not from AUSA Armijo, I was not.

11 Q. AUSA Shana Long also spoke to you about the passenger
12 list?

13 A. Yes, she did.

14 Q. And that was in late 2018?

15 A. I don't remember the date, but she spoke to me about it.

16 Q. And she asked you to retrieve a copy of the passenger
17 list?

18 A. She asked me if I had one, and I told her I did not, and
19 then I told her I may be able to obtain one, which I did.

20 Q. Okay. And you were able to get the same one that you got
21 back on August 4, 2017; right?

22 A. Yes, sir.

23 Q. With the markings and everything?

24 A. Yes, sir.

25 Q. And that's about over a year after it was sent to you?

1 A. I don't know when I received it to be able to --
2 basically, Judge Johnson ordered us to turn it over. I don't
3 know when I received it.

4 Q. No, you got the list -- okay, I see what you're saying.
5 You don't know when you received it most recently?

6 A. No, I do not remember the date.

7 Q. You recall, though, it was about a year after you
8 originally got it?

9 A. I don't remember.

10 Q. Okay. You got it after AUSA Shana Long came on the case?

11 A. Yes.

12 Q. When you were asked about the report by AUSA Armijo, you
13 told him that you throw these reports away; is that correct?

14 A. I don't know if that was the exact wording. Basically, I
15 informed him that they're not -- I don't keep them. As a
16 general practice, I do not keep the passenger lists.

17 Q. Did you tell him that you were able to get another?

18 A. He didn't ask me, so, no, we didn't speak about that.

19 Q. You didn't offer that information? You didn't say, oh,
20 but I can get a copy?

21 A. No, because I wasn't sure if I could get a copy. So, no,
22 I didn't talk about that.

23 Q. It's fair to say that this was the first case in which you
24 were asked to get a copy of a passenger list?

25 A. That I was asked to get one?

1 Q. That you got one. You said you didn't know whether you
2 could get one.

3 A. Well, it --

4 Q. Then you learned that you could.

5 A. It had been a while, so I was asked if I had one, and I
6 said, no, and I could try to obtain one. I didn't know how
7 long they existed, or if they even had them. So I didn't know
8 for sure.

9 Q. But in this case, you learned that you could get one?

10 A. Yes.

11 Q. And you're saying the first time you learned that was when
12 AUSA Shana Long asked you to get one?

13 A. That's correct.

14 Q. So you had to get it by asking the person who sent it to
15 you originally?

16 A. I spoke with my confidential source.

17 Q. Is that the person who sent it to you?

18 A. Yes.

19 Q. Did you ask how they saved it?

20 A. No, I didn't. I did not.

21 Q. Whether she or he had a file in which they filed the exact
22 reports that they sent to you?

23 A. I didn't ask that question. I just asked if I could -- if
24 it existed, if I could get one.

25 Q. And just to be sure, you didn't ask your confidential

1 source whether you could get one when AUSA Armijo asked you
2 whether you still had the report?

3 MS. LONG: Your Honor, at this point I'm going to
4 object to asked and answered. I think we've gone over this.

5 THE COURT: Didn't you already ask that question?

6 MR. FERNANDEZ: I think that's true, Your Honor.
7 I'll withdraw.

8 THE COURT: Sustained.

9 BY MR. FERNANDEZ:

10 Q. Okay, I want to turn our focus directly to the lists,
11 themselves. On the top of the list that says, "Report Origin,
12 Phoenix," in the left-hand corner, it says, "Schd: GLI 1342."
13 Is that right?

14 A. Yes, sir.

15 Q. And that stands for Schedule: Greyhound Lines 1342?

16 A. I don't know what GLI stands for. That's probably a
17 pretty good guess. 1342, I believe, is the schedule number.

18 Q. That's the bus number?

19 A. Not the bus number. The bus number is different than the
20 schedule number.

21 Q. Oh, I see what you're saying. That's the number for that
22 itinerary, or like that path?

23 A. The bus has a number printed on the side of it, and then
24 their routes or their schedules are different than the bus
25 number.

1 Q. So that's the route number?

2 A. I don't know if that's the exact term, but that's what I
3 would refer to it as. I think it's referred to as a schedule
4 number.

5 Q. Okay. But both of these passenger lists are for the same
6 scheduled bus, 1342?

7 A. Yes.

8 Q. But they represent different stages of Bus 1342, or Route
9 1342; is that fair to say?

10 A. Well, they're kind of -- part of them are duplicated. The
11 first one is originating in Phoenix, and then after the bus
12 leaves Phoenix, it goes to Glendale, and then it picks up
13 passengers in Glendale. The second is basically the passengers
14 that boarded in Glendale, but it also has the names of the
15 other passengers that are already on the bus.

16 Q. So the first one -- we'll call it the first one, because
17 that one says, "Report Origin, Phoenix."

18 A. Yes, sir.

19 Q. And that's where the bus starts?

20 A. No. Actually, the bus starts in Los Angeles, but it goes
21 to Phoenix.

22 Q. You're saying Schedule 1342 starts in Los Angeles?

23 A. I don't know if that's the schedule number, but I know it
24 starts in Los Angeles. I don't know if the schedule number
25 changes. It changes in different cities. I don't know the

1 number of the bus that leaves Los Angeles.

2 Q. Okay. We'll get back to that in a second.

3 The "Report Origin, Glendale," the one that says "Report
4 Origin, Glendale" at the top, that represents the first stop of
5 Bus 1342, or Schedule 1342, after Phoenix; right?

6 A. Yes. It goes from Phoenix to Glendale.

7 Q. Is it okay if I refer to these reports, one as the
8 Glendale and the other as the Phoenix? Would that make sense
9 to you, Agent Perry?

10 A. Yes.

11 Q. Okay. So on the Phoenix report, there's a column named
12 "Inbound Passengers." Do you see that?

13 A. Yes, I do.

14 Q. And it says -- inbound passengers are passengers switching
15 from a bus to Bus 1342; is that what you understand it to be?

16 A. Well, as I testified earlier, the bus may be the same
17 number, the Schedule 1342. I don't know where that schedule
18 originates. It could be LA or it could be Phoenix. But those
19 passengers are the passengers that are on the bus that comes
20 here to Albuquerque.

21 Q. Okay. On the Glendale report, there is no column that
22 says inbound passengers?

23 A. No. At the top, it says, "Through Passengers."

24 Q. Right. So Through Passengers are passengers who are
25 staying on the bus past that stop; right?

1 A. Past what stop? I don't understand.

2 Q. Past the stop that's listed at the top of the report,
3 Glendale.

4 A. I'm not exactly sure. I don't know what the Through
5 Passengers means. My understanding is that's passengers that
6 are coming on the bus that didn't originate in Glendale,
7 they're coming --

8 Q. So there's no through passengers in Phoenix; is that
9 correct?

10 A. No, it says, "Inbound Passengers." I don't know the
11 difference between the words inbound and through. I don't know
12 what the difference is for that.

13 MS. LONG: Your Honor, if I may, I think that
14 Mr. Fernandez is asking Agent Perry a lot of specific questions
15 that are not necessarily relevant to how he uses this list. So
16 he's asking Agent Perry to opine as to what through passenger
17 means or inbound passenger, and I think it's part of why Agent
18 Perry is having a hard time answering, is because he doesn't
19 generate this. He knows how he uses this list, which is what
20 we're here for today.

21 So I would just ask that Mr. Fernandez couch his
22 questions in terms of -- you know, he may not know the answers,
23 because he's asking him to rely and interpret Greyhound
24 material.

25 MR. FERNANDEZ: Well, Agent Perry knows how to say

1 he's not sure. If I ask him a question, I'm not asking him to
2 make something up. And so if I ask him a question -- for
3 instance, "What's Through Passengers?" He said, "I don't
4 know." So then we know that he can't use it in that way,
5 because he doesn't know what it is.

6 THE COURT: well, I think that's -- in other words,
7 Agent Perry, I think you've been doing this, but, for example,
8 if there are notations on this that you're not familiar with
9 because you would need somebody from Greyhound to interpret
10 this, then just indicate you don't know. I think you've been
11 doing that. For example, you didn't know the distinction, how
12 Greyhound distinguishes inbound from through. So if you're not
13 sure, just answer the question that way.

14 THE WITNESS: Yes, sir.

15 BY MR. FERNANDEZ:

16 Q. You said the reports tell you who's getting on at a
17 particular stop; is that right?

18 A. I don't believe I stated that.

19 Q. You said the report help you know who is getting on and
20 who is getting off?

21 A. I don't remember stating that, no.

22 Q. Okay. Do you know, based on these reports, who is getting
23 on at a particular stop?

24 A. Specific passengers, yes.

25 Q. And you know that because it's under the category,

1 "Originating Passengers"?

2 A. which list are you talking about?

3 Q. Both of them have a column named Originating Passengers,
4 so both indicate who's getting on at that stop; is that right?

5 A. My understanding on the Phoenix list, Originating
6 Passengers means those passengers originating in Phoenix, and
7 on the Glendale list, the Originating Passengers means those
8 passengers that are originating in Glendale.

9 Q. So you said you weren't sure what inbound passengers were,
10 but they're not the passengers that are starting their journey
11 in Phoenix if they're listed on the Originating Passengers list
12 on the Phoenix report?

13 A. Yes. My understanding is they did not originate in
14 Phoenix, they were on the bus when it came into Phoenix.

15 Q. And also on the Glendale report, Originating Passengers
16 are those passengers who got on the bus in Glendale?

17 A. Yes, I believe I just stated that.

18 Q. And the Through Passengers -- well, we can now do this.
19 All the Through Passengers in Glendale are those passengers who
20 got on the bus in Phoenix? All the names listed as Through
21 Passengers in Glendale appear on the Phoenix report; is that
22 right? And you can take your time to make sure that I'm not --

23 A. No, I think you're partially accurate. You said the
24 passengers that didn't originate in Phoenix. If they're on the
25 Through Passengers in the Glendale list, yes, they were on the

1 bus when it either came into Phoenix or boarded in Phoenix. So
2 they could have got on before Phoenix.

3 Q. Right. But everyone who left the station in Phoenix is on
4 the Through Passengers list in Glendale with the exception of
5 those who got off in Glendale?

6 A. I would say that's an accurate statement.

7 Q. And there's three people who got off in Glendale; is that
8 right?

9 A. According to the list, yes.

10 Q. So the Glendale list repeats all the passengers in the
11 Phoenix list, except those who got off in Glendale?

12 A. And who got on in Glendale.

13 Q. Right. They added plus the eight that got on in Glendale?

14 A. Yes, sir.

15 Q. And by looking at the Glendale list, you can tell who --
16 sorry. By looking at the Phoenix list, you can tell who is
17 scheduled to get off in Glendale; right?

18 A. Yes.

19 Q. And that, to you, indicates that they were not going to
20 arrive in Albuquerque on Bus 1342, or Route 1342?

21 A. I think that's a correct statement, yes, sir.

22 Q. And so this is what I mean. You agree that there's
23 different information on the two lists? On Phoenix and
24 Glendale, some names are listed, some names are taken off,
25 based on the movement of passengers?

1 A. That's correct.

2 Q. And on the bottom of the Glendale list, it has an entry
3 for Flagstaff, Arizona?

4 A. Yes, sir.

5 Q. And it says: "Res on, 9." Do you see that column and
6 entry?

7 A. Yes, sir, I do see that.

8 Q. Does that indicate to you that in Flagstaff, nine people
9 are going to get on the bus?

10 A. I believe that's accurate, yes, sir.

11 Q. And "Res off, 10," that indicates to you that ten people
12 in Flagstaff were going to get off the bus?

13 A. Correct.

14 Q. And then at the very end, the last thing on Glendale, it
15 says: "Bags off, 4."

16 A. You're talking about in Flagstaff?

17 Q. Yes.

18 A. Yes, I believe that's what it says, yes.

19 Q. And you've looked at this list, and you can tell that that
20 makes sense; right? There's nine people -- I'm sorry. There's
21 ten people on the Glendale list that have their final
22 destination as Flagstaff; is that correct?

23 A. I can try to count them, if you want, but I just go by the
24 bottom, and it says ten. I believe that's going to be
25 accurate.

1 Q. I can promise you, I'm not pulling a fast one. There's
2 ten people. You would agree with that?

3 A. I have no reason to say that you can't add.

4 Q. Okay. And the "Bags Off, 4," you can verify that, too,
5 because there's a column that says, "Bags," and it indicates to
6 you whether or not a person getting off in Flagstaff has a bag
7 with them; right?

8 A. Well, if you look at the passengers, and with your
9 addition, and if it says they had four bags, you add that up,
10 and if that's accurate, then you come up with that number.

11 Q. But that's something you know about; right? That's
12 something you look for?

13 A. No, because I'm not in Flagstaff, so I really don't care
14 who gets off in Flagstaff. They're off the bus before it gets
15 here, so I really don't care who gets off in Flagstaff.

16 Q. I mean, you know who's supposed to come off a bus with
17 bags; right?

18 A. If you -- if it's listed arriving in Albuquerque, yes,
19 it'll state how many people are getting off with bags. But
20 this list only has two places on it, so I wouldn't know that.

21 Q. Let's look at the Phoenix list.

22 A. Yes, sir.

23 Q. There's a Passenger 24, Robert Cooley. I'm just using him
24 as an example. Do you see that entry?

25 A. I do, yes.

1 Q. And it says one bag?

2 A. Yes.

3 Q. And "Change Bus, Albuquerque"?

4 A. That's correct.

5 Q. So you'd expect, if you're watching Robert Cooley get off
6 the bus, to see him take a bag off the bus; is that correct?

7 A. Yes, but that's not always accurate. But, yes, that bag
8 list is fairly accurate.

9 Q. And that's at least what this schedule shows, or indicates
10 to you; right?

11 A. Yes. It shows he has one checked bag, and he's changing
12 buses in Albuquerque and his destination is Colorado Springs.

13 Q. Just so I'm clear, there's a column that says, "Res
14 Number." Is that right?

15 A. Yes, sir.

16 Q. And that's a person's reservation number?

17 A. Yes, sir.

18 Q. Is it fair to say that if someone has the same reservation
19 number, they purchased their ticket together?

20 A. That means they're traveling together on the same
21 reservation.

22 Q. Yes. That's what it says?

23 A. That's what it would mean to me, yes.

24 Q. And we've touched on this a little bit, but the column
25 that says, "Change Bus," that's where the person would have to,

1 I guess, change their bus to get to the final destination?

2 A. Yes. Along the route, they would change a bus.

3 Q. And if they change their bus, they have to take their
4 luggage off with them; right?

5 A. In certain cities, they do.

6 Q. And Albuquerque is one of them?

7 A. Depends on where your destination is.

8 Q. Denver.

9 A. Yes. Well, let me rephrase that. Sometimes they do, and
10 sometimes the employees will take them off and store them for
11 them. So it just depends.

12 Q. I see. But the luggage does come off the bus?

13 A. Yes, it has to, because that bus -- they get on a
14 different bus.

15 Q. And if someone is staying on the bus, they don't have to
16 have their luggage taken off the bus?

17 MS. LONG: Your Honor, at this point I'm going to
18 object just in the interest of trying to get this hearing done.
19 We know what Ms. Ramos-Burciaga was doing. My understanding of
20 the purpose of this hearing is to limit it in terms of Agent
21 Perry's use of this list in this matter. So while it's
22 interesting to explore the intricacies of this list, as it may
23 pertain to the Defendant, I don't think that's the inquiry
24 before the Court today.

25 MR. FERNANDEZ: Well, Your Honor, I can't confront

1 Agent Perry about the list until I know how he understands the
2 list and what information he can get from it. I will
3 eventually get to the point to show that the way he's testified
4 he's used the list I think is inconsistent with what the list
5 actually shows, but in order to do that, I need to, I think,
6 have a pretty broad inquiry into what the list actually shows.

7 THE COURT: well, I guess I don't mind you inquiring
8 about the witness' knowledge of the list, but I think,
9 obviously -- for example, your client is listed, so I'm
10 assuming at some point we're going to get into some questions
11 about what he understood about her name.

12 MR. FERNANDEZ: Yes.

13 THE COURT: So I guess maybe the sooner we get there,
14 the better. So if we can try to move in that direction, I
15 think it would be helpful.

16 MR. FERNANDEZ: Okay. Yes, Your Honor. I'm not sure
17 if there is an objection, though.

18 THE COURT: I guess I'll overrule the objection now,
19 but I may sua sponte raise it if we don't get to what I think
20 is the meat of the inquiry here in the not too distant future.
21 So let's leave it at that.

22 BY MR. FERNANDEZ:

23 Q. You didn't get the list for Flagstaff; is that correct?
24 The passenger list that says, "Report Origin, Flagstaff"?

25 A. No, I did not.

1 Q. And you didn't get the list that says Report Origin for
2 any other city along Bus Route 1342 that day?

3 A. Well, if you look at the Phoenix list, as you call it, the
4 list has inbound passengers. So that list would include other
5 stops, not just Phoenix and Glendale.

6 Q. Did you get the list for those stops?

7 A. It's on this list.

8 Q. I'm only asking if you got a list that says, Report
9 Origin, and then some other city other than Glendale and
10 Phoenix.

11 A. This is all I received, these two pages.

12 Q. And why didn't you ask for the Flagstaff list?

13 A. That's not a list that I'm really interested in.

14 Q. Why not?

15 A. Because -- I'm trying to think. I don't think I've ever
16 arrested anyone that got on the bus in Flagstaff.

17 Q. You've never arrested someone who got on the bus in
18 Flagstaff?

19 A. I can think for a while, but I can't recall. If I have,
20 it's been very few.

21 Q. Have you ever arrested someone who got on the bus in LA?

22 A. Yes, I have.

23 Q. And why didn't you get the LA bus list?

24 A. It's on this list.

25 Q. The entire LA bus list is on which list?

1 A. On the bus that I'm checking, this specific bus, it has
2 Inbound Passengers, and if you look at the list, it has
3 handwriting. LA, Sacramento, San Diego. So it has paying
4 passengers that are getting on at other stops that's on this
5 list.

6 Q. Okay. So all the passengers from LA that you'd be
7 interested in are on the Phoenix list; is that the idea?

8 A. I don't know what you mean by interested in.

9 Q. You said that. "I didn't get the other lists because I'm
10 not interested in that."

11 A. No, I said Flagstaff. I'm not interested in the list for
12 Flagstaff. You asked if I'd ever arrested anyone getting on in
13 LA. So, yes, I mentioned people getting on in LA, and that's
14 why there's writing on this list.

15 Q. We'll get to the writing, but what I'm asking you is, why
16 didn't you want a complete list of LA?

17 A. This is the complete list.

18 Q. One person from LA is the complete list from LA?

19 A. Well, there's a lot of names on there that don't have
20 writing beside them. Some of those passengers could have
21 boarded in LA. I don't know that.

22 Q. So you wouldn't know that. So I'm saying, the only person
23 you know for sure is the one person that says LA, and that's a
24 complete enough list for you?

25 A. Yes, it is.

1 Q. Okay. The reason you didn't get the list has nothing to
2 do with the fact that you already found that Dulce Ramos was on
3 the Glendale list?

4 A. Can you repeat that question, please?

5 Q. Sure. You didn't get the other lists because you already
6 found Dulce Ramos on the Glendale list?

7 A. That question makes no sense to me.

8 Q. I'll repeat it in a different way.

9 You were looking for Dulce Ramos that day; right?

10 A. No. This list has her name on here. She was a person I
11 was interested in speaking with, if I could find her, which I
12 did. So I got the list like I normally do on every other day.
13 Her name just happened to be on that list.

14 Q. So you were interested in speaking with her before you got
15 the list?

16 A. No. I didn't know there was a Dulce Ramos on the bus
17 until I got the list.

18 Q. So once you got the list, you found out that there was a
19 Dulce Ramos on the bus?

20 A. On the list, yes, sir.

21 Q. And then you decided you wanted to speak with her?

22 A. She was a person I wished to speak with, yes.

23 Q. Okay. And why?

24 A. Because she originated in Glendale, Arizona, she paid
25 cash, and she was destined for Denver, Colorado.

1 Q. How did you know she paid cash?

2 A. Because it has a CA written right beside her name.

3 Q. There's also a gentleman -- I'm sorry. So you were
4 interested in just the people paying cash; is that the idea?

5 A. No. But if you ask me to explain the list, I can explain
6 the writings and tell you what the writings mean, so maybe
7 it'll make you understand better.

8 Q. Yes, let's do that. First of all, can you tell us why
9 there are certain names underlined?

10 A. Because I asked the confidential source to let me know the
11 passengers that paid cash, and also the ones -- see the RI?
12 The ones that were reissued. That's the people that I'm
13 interested in speaking with.

14 Q. So all the names that are underlined are either paid cash
15 or had their ticket reissued?

16 A. Yes, sir.

17 Q. And that's the only information that the underlining
18 signifies?

19 A. Yes. I think the underlining is -- I've never asked the
20 CS to underline it, but I think it probably helps them do their
21 job.

22 Q. There's also little sort of brackets on the Phoenix list,
23 little sort of arrow points. Do you see that?

24 A. Yes, sir.

25 Q. That indicates to you who is on the same reservation

1 number?

2 A. Yes, sir.

3 Q. Now, is there any reason why the confidential source
4 points that out to you specifically?

5 A. Maybe to help me. They think I can't read the numbers or
6 something. I'm not exactly sure. I never asked them to do
7 that.

8 Q. It's just an aid, because you can get that same
9 information without the bracket; right?

10 A. Yes. I can read the numbers, yes, sir.

11 Q. And you've already hinted at this, but in the middle of
12 the Phoenix list, there's a number of cities listed. LA,
13 Sacramento, San Diego, Mesa. That to you means, what?

14 A. Are you talking about the handwriting?

15 Q. Yes.

16 A. Yes, that means they originated in those cities.

17 Q. And why is that important to you?

18 A. Because it's the ones that paid cash or are reissued. I
19 like to know where they originated.

20 Q. Okay. So the only ones you don't have a city listed for
21 are the ones who are on the Originating Passengers list, so you
22 know where they originated. Is that fair to say?

23 A. No, I don't think so.

24 Q. Let's see. Adam Voltares, he's underlined in Phoenix.

25 A. Yes, I see that.

1 Q. But there's no city listed. There's no city handwritten.

2 A. All the originating passengers, to my knowledge,
3 originated in Phoenix.

4 Q. Right. That's all I'm saying. So the reason they didn't
5 handwrite something in is because you know that they started,
6 they originated in Phoenix, and so you didn't need that
7 information from the confidential source?

8 A. Correct.

9 Q. So before you received this Glendale list, you had never
10 heard of the name Dulce Ramos?

11 A. I had not.

12 Q. And there was nothing about Dulce Ramos that stood out
13 other than paid in cash, coming from Glendale?

14 A. Going to Denver, and she also had a checked bag.

15 Q. Going to Denver. Now, is Denver also of interest to you?

16 A. Yes, it is.

17 Q. Why is that?

18 A. Because I've arrested -- I don't know the number.

19 Numerous, numerous people destined for Denver with illegal
20 narcotics.

21 Q. How about Oklahoma City?

22 A. I've arrested a lot of people going to Oklahoma City,
23 that's correct.

24 Q. How about Tulsa?

25 A. That's also correct.

1 Q. How about Chicago?

2 A. Not so much on the bus, but on the train.

3 Q. Well, you'd agree that one of the connecting -- one of the
4 passengers was going to connect to a bus to Chicago; is that
5 right? Melissa Hernandez?

6 A. Can you tell me which list you're --

7 Q. Glendale, midway. It says she's going to switch in
8 St. Louis, and then her final destination is Chicago.

9 A. I don't see that on the Glendale list.

10 Q. Okay. She's listed -- it's alphabetical order, and her
11 last name is Hernandez.

12 A. Oh, okay. I thought you were talking about the ones
13 originating in Glendale.

14 Q. Oh, no. She's in the through passenger list.

15 A. I see the name.

16 Q. And she's going to Chicago?

17 A. It shows a destination of Chicago, yes, sir.

18 Q. Fair to say that you've arrested people going to Chicago?

19 A. I have --

20 Q. How about --

21 A. -- on the train. I don't know about on the bus.

22 Q. How about Nashville?

23 A. A few.

24 Q. Dallas?

25 A. Very few.

1 Q. New York?

2 A. Yes.

3 Q. Is it fair to say that there's actually a lot of cities on
4 this list that -- a lot of destinations that you've arrested
5 people going to?

6 A. I've arrested a lot of people, so I believe a lot of
7 cities, yes, sir.

8 Q. Now, you get the -- it's a common practice of yours to get
9 the passenger list?

10 A. Yes, sir.

11 Q. Does your source just send them to you, or do you have to
12 ask for them?

13 A. I used to ask for them, but then they just started sending
14 them to me, because that was kind of a general practice.

15 Q. That's every day?

16 A. Maybe not every day, because some days I decide I'm not
17 going to work.

18 Q. That's fair. You should have some time off, too.

19 Did you specifically ask for them to indicate to you paid
20 in cash and what city they're come from? Is that something
21 you've already said?

22 A. If they paid in cash or had it reissued, I ask to look up
23 the origination city, if it's not Glendale or Phoenix, yes.

24 Q. You testified about this at the first hearing. I asked
25 you, what do you do with the passenger list, and you said, I

1 look at it. Do you recall that?

2 A. Yes.

3 MS. LONG: Your Honor, if we could -- there's been
4 multiple hearings. There's been a preliminary hearing --

5 MR. FERNANDEZ: There's only been one suppression
6 hearing.

7 MS. LONG: Right. So I just wanted to make sure --
8 there was an evidentiary hearing, as well, on the agency where
9 Agent Perry testified, and then there was the suppression
10 hearing. So if we can just make sure --

11 THE COURT: Are you talking about the suppression
12 hearing?

13 MR. FERNANDEZ: Yes. I'll concise.

14 BY MR. FERNANDEZ:

15 Q. In the suppression hearing at Page 40, if you have the
16 transcript, I asked you what you do with the passenger list,
17 and you said, "I look at it." Do you recall that?

18 A. I don't remember the exact words, but I believe that's
19 pretty accurate.

20 Q. I asked you for some more details, and you gave us more
21 details. Do you recall that?

22 A. I don't remember my exact testimony.

23 Q. Would it be helpful if I showed you a page of the
24 transcript of that hearing? Would that help refresh your
25 recollection?

1 A. I can read it, if you want to give it to me, yes.

2 MR. FERNANDEZ: May I approach, Your Honor?

3 THE COURT: You may.

4 A. Can you tell me what number? Do you want me to look at
5 the whole page, or just start at a certain area?

6 BY MR. FERNANDEZ:

7 Q. Just at the top of the page to the midway down, midpoint.

8 A. Okay, I'm finished.

9 Q. May I retrieve it from you?

10 So when I asked you previously what you do with it, some
11 details, you said you look for certain destinations?

12 A. Yes, sir.

13 Q. You look for origination points?

14 A. That's correct.

15 Q. You look for people who have bought their tickets close
16 together, traveling from the same city to the same destination?

17 A. Yes.

18 Q. And you also said you look for people who are traveling
19 together?

20 A. Yeah. I want to know that when I get on the bus and speak
21 with people, yes. I'd say that's an accurate statement.

22 Q. And also whether or not they checked luggage?

23 A. Yes, sir.

24 Q. You didn't previously say that you looked to see whether
25 or not they paid cash; right? If you want, I can give you your

1 testimony back.

2 A. That's okay. I don't think it was on that page. I don't
3 think I testified to that earlier.

4 Q. You also didn't say, I look at the list to see what hand
5 markings my confidential source put in there; right?

6 A. I didn't testify to that, no.

7 Q. You didn't say you looked to see whether or not the ticket
8 was reissued?

9 A. I did not.

10 Q. But you agree that those are all things that you do
11 consider?

12 A. Yes, that is things I do consider when I look at the list.

13 Q. Okay. So why didn't you say, I consider whether or not
14 someone paid in cash?

15 A. Maybe I just overlooked that on my testimony. I've
16 testified in numerous hearings, not just in this case. But
17 that's one of the things that's kind of a known.

18 Q. Why didn't you put that the confidential source conveys
19 additional information above what's written on the passenger
20 list?

21 A. Because I don't believe I was asked that question.

22 Q. I asked you at one point -- one moment.

23 I asked you what you get from the confidential source, and
24 your answer was: "I use a confidential source to obtain the
25 bus itinerary. That's the only thing that I've obtained from a

1 confidential source." Do you recall saying that?

2 A. No. But if you say it's in the transcript, that's what I
3 said. I don't remember actually all my testimony. It's been a
4 while ago.

5 Q. So if you said, "That's the only thing that I've obtained
6 from a confidential source," you'd agree that that's not a
7 complete statement?

8 A. That's all I -- no, I think that's a complete statement.
9 The only thing I get from a confidential source is the list.
10 You didn't ask me what was on the list. We didn't go over what
11 was on it. So I believe that's a complete statement. That's
12 all that I do get.

13 Q. Now, I want to call your attention -- one of the things
14 you thought was important, as we just went over, were people
15 that were traveling to the same city from the same city who had
16 their reservations sort of booked close together. I know
17 that's a mouthful. Do you want me to break it down?

18 A. I think I understand what you're asking. Yes, that's one
19 of the things that I look for.

20 Q. So on the Glendale list -- excuse me. On the Phoenix
21 list, there are two passengers, 28 and 30. They're both
22 traveling to Oklahoma City from Phoenix, and they purchased
23 their reservations close in time. That's why they're grouped
24 together like that; right?

25 A. You're looking at the Phoenix list?

1 Q. Yes, the Phoenix list.

2 A. You're looking at No. 28 and No. 30? That would be Ellis
3 and Vick?

4 Q. Yes.

5 A. They didn't originate in Phoenix, because they're not in
6 the origination passengers. They got on before Phoenix.

7 Q. I apologize. You don't know where they came from; right?

8 A. I do not.

9 Q. So they could have come from the same city?

10 A. Possibly, yes.

11 Q. And just so I'm clear, the Phoenix list has the passengers
12 listed according to reservation number, and those reservation
13 numbers are in sequential order. Do you see that?

14 A. I'm looking at it. I'm trying to see if they actually
15 are. I believe that's correct.

16 Q. So that would indicate to you that they had purchased
17 their reservation close in time to one another?

18 A. Are you talking about 28 and 30 still, or are you talking
19 about other passengers?

20 Q. Yes, 28 and 30 still.

21 A. If you look at the reservation number, I don't believe
22 that they purchased their tickets close to the same time, no.

23 Q. Okay. So when you said you looked for people who
24 purchased their tickets close in time, what exactly are you
25 looking for? How close does their reservation number have to

1 be?

2 A. I don't know if I testified to the same time, because this
3 doesn't have a time.

4 Q. You said close together.

5 A. Close together. That's a big difference. I don't know
6 what time they purchased their ticket, according to this list.
7 I can look at the reservation number and look at the digits.
8 If you look at the digits on the reservation number for No. 28
9 and No. 30, those aren't close together, so I don't think those
10 two -- you said they're traveling together or close to the same
11 time. I don't believe so.

12 Q. You said: "Sometimes I look for people that have bought
13 their tickets close together." So what did you mean by that?

14 A. By looking at the reservation number, if you look -- say
15 you looked at Mr. Ellis and Mr. Vick. If they had all the
16 digits -- say it was 44274278, and then the other one ends in
17 79, they bought their tickets next to one another.

18 Q. Okay. So they have to be within one or two; is that --

19 A. No, it's not a general practice. I just know from my
20 experience of looking at that, the reservation numbers, that
21 they probably purchased their tickets close to the same time.
22 There's not a general one or two, it's just -- it might be
23 three, it might be four. I don't have a general number.

24 Q. But they're too far apart for you to consider them having
25 bought their tickets close together?

1 A. Probably that's an accurate statement. When you say, for
2 me, I don't know what you mean by for me. I don't care when
3 they bought their tickets.

4 Q. You, meaning for that factor to register.

5 A. I'd say that's an accurate statement.

6 Q. Now, Passengers 4 and 6, Melinda and Scott, are they also
7 too far apart for that factor to register as close in time?

8 A. They are way far apart.

9 Q. And also 40 and 43?

10 A. They're pretty far apart, also.

11 Q. Well, so how does that fall into your spectrum? Is that
12 close enough to raise some interest, or none at all?

13 A. Which ones are you talking about?

14 Q. 40 and 43. And the reason I picked them out is because
15 all these pairs are traveling from the same city going to the
16 same place.

17 A. So what was your question, again, please?

18 Q. Is 40 and 43, who are both going to Albuquerque, do you
19 consider their reservation number close enough in time, or is
20 that far apart for that factor to be considered?

21 A. That's not something I would generally look at, no.

22 Q. So we've gone through a lot of things, and the AUSA
23 pointed out that maybe it's been exhaustive, but is it fair to
24 say that the only thing you used this passenger list for is to
25 find out whether someone has checked a bag, whether they paid

1 in cash or had their ticket reissued, what city they're coming
2 from, where they're going, and whether or not they are
3 traveling with someone?

4 A. All those statements I would say are accurate, except --

5 Q. would you add anything?

6 A. I wasn't finished.

7 Q. I'm sorry.

8 A. Except for the last one.

9 Q. Okay.

10 A. Sometimes when I talk to two people -- I'll give you an
11 example. Say you and Ms. Long were traveling together, which I
12 doubt --

13 Q. You never know.

14 A. -- and you had tickets that were, as you say, one or two
15 digits apart, and you were going from the same city with the
16 same destination, and I get on the bus and I talk to y'all and
17 you say, no, I'm traveling by myself. From my experience, I
18 believe you're probably traveling together, so that's something
19 that piques my interest. So that last statement is probably
20 not accurate.

21 Q. Okay. Well, so that's an example of how you clarified and
22 added. Is there anything else you'd add to the sort of list of
23 factors that you'd use this passenger list for?

24 A. No, that's it. Did you mention the cash part and reissue?
25 Obviously --

1 Q. Yeah.

2 A. -- that's why it's on there. So that's something I'm
3 interested in.

4 Q. And when the confidential source sends you the list, is
5 there any additional information included in that e-mail?

6 A. No. This is it.

7 Q. There's no body of the e-mail, no subject line, other than
8 like, here are the lists, something like that?

9 A. No.

10 Q. I should clarify, what does reissue mean?

11 A. That means that you decided you didn't want to travel on
12 your date. I believe, unless I'm incorrect, you have a year to
13 use that ticket when you purchase it. You have to pay \$15 or
14 \$20 when it's reissued. In other words, you decided you didn't
15 want to travel that day and your ticket was reissued for a
16 later time.

17 Q. Okay. I'm not trying to hide something, but in the list
18 of factors, you didn't include whether or not they purchased
19 the ticket on the same day. Is that something you consider or
20 not?

21 A. I don't know if they purchased a ticket on the same day
22 from this list. It doesn't have a time.

23 Q. Do you ever know when the person purchased their ticket?

24 A. I can estimate from the numbers, from the reservation,
25 just going from my experience, but that doesn't -- like, I can

1 give you an example, if you'd like. If you look at
2 Mr. Engwall, No. 3 on the Phoenix list, 392, that ticket was
3 purchased weeks ago.

4 Q. Because that's different from the other ones?

5 A. Yes.

6 Q. How about Passenger No. 46. Can you tell when he
7 purchased his ticket?

8 A. No, I can't tell you the date or time.

9 Q. Could you tell when Ms. Ramos-Burciaga -- I'm sorry; Dulce
10 Ramos purchased her ticket?

11 A. No, I cannot.

12 Q. So that's not one of the factors you considered?

13 A. Not in this, no.

14 Q. In any case?

15 A. Well, I can't say any case. I might have used it -- like,
16 the last one on the list, Mr. Craig Peterson, that ticket was
17 probably one of the last tickets that was purchased because of
18 the number. So sometimes I look at that, but not in this case,
19 no.

20 Q. So to go back to what we were talking about before, you'd
21 expect that the passengers with their -- sorry. You'd expect
22 that the passengers will end their journey with Greyhound at
23 their final destination; is that correct? That's what the
24 schedule indicates?

25 A. No, I wouldn't say that's correct. You can get off the

1 bus any time you want, and it happens.

2 Q. You'd expect someone whose final destination is Flagstaff,
3 or somewhere west of Albuquerque, to get off before
4 Albuquerque; right?

5 A. Or they can get off in Flagstaff and purchase another
6 ticket to continue, which happens.

7 Q. Okay. Looking at the list, the people who are underlined,
8 none of those passengers, as far as the list indicates, is
9 going to get off before Albuquerque; is that correct? Get off
10 the bus.

11 A. I don't believe so, no.

12 Q. That's a "yes"? All of them are going to end up in
13 Albuquerque, according to the list?

14 A. Unless -- according to the list, yes.

15 Q. And that's why the confidential source underlines those
16 and not others; is that correct?

17 A. Because I asked them to put cash and reissue. The
18 underlining part, I believe we went over.

19 Q. So, for instance, Originating Passenger 8 in the Glendale
20 list, Suki Upton, I don't know if that's a man or a female, but
21 if that person paid in cash, that person wouldn't be underlined
22 or indicated they paid in cash because they're not going to
23 come to Albuquerque; is that right?

24 A. Well, their destination is --

25 Q. Flagstaff.

1 A. -- Flagstaff. That's not something -- I'm not in
2 Flagstaff.

3 Q. So they wouldn't indicate to you that he or she paid cash,
4 because they know that that person is not going to get to
5 Albuquerque?

6 A. I would assume that's correct, yes.

7 Q. So there are people on this list who may have paid cash,
8 who may have been reissued, but aren't marked in any way
9 because you're not ever going to get a chance to see them,
10 essentially?

11 A. If the list is correct, yes, they're getting off before
12 here.

13 Q. At the suppression hearing on Page 39, I asked you: "And
14 when you approached her, at one point you asked her for her
15 name. You knew what her name was; right?" And you answered:
16 No, I didn't know her name. Until I asked her for her ticket
17 and identification, I had no idea what her name was."

18 Do you recall that?

19 A. I read it in the transcript. I don't remember me
20 testifying that day, but I read it in the transcript.

21 Q. Is that still true, though?

22 A. Yes, it is.

23 Q. You had no idea what her name was?

24 A. I didn't know who she was.

25 Q. And you said: "I didn't" -- sorry. Then I asked you:

1 "You didn't know that she was the person that you were looking
2 for?" And you answered: "No, I did not know that until I got
3 her ticket and her identification."

4 Is that correct? Is that still correct today, that you
5 didn't know that you were looking for her until you got her
6 ticket and identification?

7 A. As I testified earlier, from the list, that name was a
8 person I was wishing to speak with. I didn't know who she was.
9 I had to basically find her, which I did.

10 Q. And from this list, was there anyone else you were
11 interested in talking to?

12 A. There may have been. I don't remember, because I ended up
13 arresting your client. So I was busy with her.

14 Q. Well, you're the person who made the interpretation, or
15 the decision that night. Looking at this list, is there anyone
16 you would say you would want to talk to based on what you see
17 here?

18 A. Well, first of all --

19 MS. LONG: Your Honor, if I may object, I think at
20 this point Mr. Fernandez is asking Agent Perry to speculate
21 about his kind of state of mind at the time. What he's saying
22 is, he was interested in speaking with Ms. Ramos-Burciaga
23 because of information contained on the list. He encountered
24 her and he arrested her, so he didn't encounter anyone else
25 that day. So whether or not there was other people, and asking

1 him to go back, I just don't think that's really before the
2 Court in this hearing.

3 THE COURT: well, I think what I understood the
4 question -- I mean, the agent testified that he didn't speak to
5 anyone else, or certainly didn't speak to anyone after his
6 encounter with Ms. Ramos-Burciaga, because he arrested her. So
7 he had someone in custody, essentially; correct?

8 THE WITNESS: Yes, sir.

9 THE COURT: But what I understood the question to
10 be -- for example, is this what you were asking? If you looked
11 at the Glendale list, right above Ms. Ramos-Burciaga there's a
12 Jimmy Moon.

13 MR. FERNANDEZ: I know, there's three names.

14 THE COURT: So are you essentially asking him, if he
15 hadn't encountered your client, that if he had a chance to, he
16 would have been interested in talking to Jimmy Moon and Teresa
17 Byron? Is that essentially what you're asking?

18 MR. FERNANDEZ: Yes, or the other people who are
19 underlined.

20 THE COURT: I don't have a problem with that
21 question. In other words, for example, either the cash or the
22 re-entry people who have been identified, had you not
23 encountered this Defendant, if you had had the opportunity,
24 would you want to speak with some of the other individuals on
25 this list?

1 THE WITNESS: Yes, Your Honor. The list just helps
2 me identify people that I might be interested in speaking with.
3 It's not a definitive list. We still get on the bus and talk
4 to everybody. So, yes, I would have gotten on the bus and
5 talked with every person on this list, which we do on a daily
6 basis.

7 BY MR. FERNANDEZ:

8 Q. You did that in this case? You got on the bus and talked
9 to everybody?

10 A. No, because Ms. Ramos, as I said earlier, was arrested,
11 and I don't believe I spoke with anyone else.

12 Q. You'd agree that Ms. Ramos-Burciaga, or Dulce Ramos, was
13 one of two women who got off the bus in Albuquerque with
14 baggage?

15 A. I can look at the whole list and see, but I don't really
16 know right now.

17 Q. Well, I'll narrow it down for you. There's an Erika
18 Stoner who is listed as Passenger 1 under Originating
19 Passengers in the Glendale list.

20 A. Yes.

21 Q. She would have gotten off the bus in Albuquerque?

22 A. She was destined for Denver, so she would have gotten off
23 the bus to transfer onto the same bus that Ms. Ramos was
24 destined to go on.

25 Q. And she had a bag?

1 A. One checked piece of luggage, yes.

2 Q. So she would have taken that bag off of the bus in
3 Albuquerque?

4 A. That's correct, unless the employees will take it off.
5 Sometimes they'll take them off and hold them for them. So it
6 depends who's working and how the passenger wants to handle
7 that, whether they want to take their own bag or have the
8 employees take it.

9 Q. And then if you look on both lists, Glendale and Phoenix,
10 you'll notice no other female passenger changing buses in
11 Albuquerque. Is that fair to say?

12 A. If you give me a moment, I can go through all of this.
13 I'm not exactly sure. I have to look at the whole list.

14 Also, you haven't talked about this. You can travel under
15 a false name, which means I can buy my ticket in my name and go
16 give it to Ms. Long. She can be a female and have a male name
17 on it, which has happened. So you can't always go by the name,
18 if that makes sense.

19 Q. According to the list, there's exactly two women that were
20 changing buses in Albuquerque. Let's start there. Is that
21 right?

22 A. Well, I see a Charlene --

23 Q. Dewakuku?

24 A. Yes, if that's the correct pronunciation, that's destined
25 for Albuquerque, yes.

1 Q. She doesn't have a bag, though; right?

2 A. According to the list. But you can't always go by that,
3 either.

4 Q. It's fair to say you rely on the list to some extent,
5 though; right?

6 A. Yes, but it's not always accurate.

7 Q. Okay. Is there any other female changing buses in
8 Albuquerque?

9 A. I'm still looking. If you could maybe direct me to it, I
10 could maybe save a lot of time.

11 Q. I don't see any other females changing buses in
12 Albuquerque. I see only three, and only two have bags.

13 A. That's correct.

14 Q. You observed Ms. Ramos take her bag off of the bus in
15 Albuquerque; is that correct?

16 A. I did, yes.

17 Q. And so you had a pretty strong sense of who she was once
18 you saw that? She was either Erika Stoner or Dulce Ramos, if
19 the list is correct?

20 A. Can you repeat your question, please?

21 Q. According to the list, the female person who's taking her
22 bags off in Albuquerque was either Dulce Ramos or Erika Stoner?

23 A. I can't believe that's an accurate statement. Some
24 passengers that are continuing on their trip will get their
25 checked luggage off to get something out of it and take it with

1 them here. So you can't always go by that.

2 Q. When you saw it, you thought, that's a good indication
3 that that's Dulce Ramos; right?

4 A. I didn't know until I walked up and talked to her who she
5 was.

6 Q. But the reason you went up and talked to her is because
7 you thought it was a strong likelihood that that was the person
8 that was Dulce Ramos?

9 A. It could have been. I would assume that Dulce Ramos is an
10 Hispanic name. Your client is Hispanic. Erika Stoner I would
11 say is probably not an Hispanic person, if the name is correct.

12 So, did I know that was Dulce Ramos? No. Did I want to
13 find out? Yes. I watched her get the bag off and go inside.
14 I assumed she was either going to Albuquerque or transferring
15 north. Once I talked to her and asked for her ticket and
16 identification, then I knew that was the person that was
17 traveling under that name.

18 Q. Were you aware that Erika Stoner is a senior citizen?

19 A. I have no idea.

20 Q. You never looked at her ticket?

21 A. I don't believe I did.

22 Q. Do you recall seeing Erika Stoner that evening?

23 A. I don't remember, no.

24 Q. Do you recall someone other than Ms. Dulce Ramos, female,
25 taking their luggage off the bus?

1 A. I don't remember.

2 Q. You said that at times people travel under false names and
3 that sort of thing. Do you recall seeing any Hispanic woman
4 taking luggage off the bus that night?

5 A. I've checked hundreds of buses since then. I don't
6 remember.

7 Q. Do you recall speaking to AUSA Armijo on January 3, 2018?

8 A. I've spoken to him quite often on this case. I don't
9 remember the exact dates.

10 Q. Do you recall a conversation in which he specifically
11 asked you about the passenger list?

12 A. We had numerous conversations about the passenger list,
13 but did he specifically -- I told him. Again, as I testified
14 earlier, I don't know if he ever asked me if I had one. I told
15 him that I had the passenger list on numerous occasions.

16 Q. And on at least one occasion, you told him that you got
17 that passenger list from a confidential source?

18 A. Yes, I did tell him that.

19 Q. Is that because he asked you, or because you just shared
20 that information?

21 A. I can't remember. I told him I had a passenger list. He
22 may have asked me where I got it from. I can't remember if I
23 volunteered it, or if he asked me.

24 Q. And he told you the reason he was asking is because the
25 defense attorney had made a specific request for it? Do you

1 recall that?

2 A. No, I don't recall him telling me that, no.

3 Q. He didn't reference an e-mail that the defense attorney
4 had sent?

5 A. I believe he sent me an e-mail, but I don't believe it
6 specifically said passenger -- if it did, I don't remember, if
7 it specifically had passenger list on it or not.

8 Q. Do you recall that the e-mail he sent to you forwarded the
9 body of the defense attorney's e-mail?

10 A. I do recall him sending me one, but I don't remember
11 exactly what was in it.

12 Q. And when you spoke to him about the passenger list, you
13 told him that you did get a passenger list from the
14 confidential source; is that right?

15 A. As I testified earlier, I told him that on numerous
16 occasions.

17 Q. And you also told him that you're not releasing it?

18 A. I didn't tell him that I'm not releasing it, no. I didn't
19 make that statement.

20 Q. You didn't say, I'm not releasing it?

21 A. No, I did not.

22 Q. Did you say, you shouldn't release it?

23 A. I basically told him that, from my experience in the past
24 at the U.S. Attorney's Office, that that passenger list was not
25 discoverable.

1 Q. You told AUSA Armijo what you thought was discoverable?

2 A. I told him the practice of the U.S. Attorney's Office in
3 previous cases was that the passenger list was not
4 discoverable, is exactly what I told him.

5 Q. Did he seem surprised? Did he ask you why?

6 A. I can't recall if he asked me why or not.

7 Q. Did he ask you to send it to him, anyway?

8 A. I don't believe he did.

9 Q. Did you ever send the list to AUSA Armijo?

10 A. I don't believe I did. I believe I sent the list to --
11 because I didn't have the list, and I don't think he asked me
12 to send it to him. I think Ms. Long is the first person that
13 asked me to send it to her.

14 Q. So you told him that you had a list, you said it's not
15 discoverable, and he never said, well, send it to me anyway?

16 A. I never told him I had a list. I told him that I had --

17 Q. Or that you got a list.

18 A. -- reviewed a list in this case. I never told him that I
19 had one currently when we spoke.

20 Q. And he never asked you to see if you could get it?

21 A. I don't believe he did.

22 Q. Now, on the evening -- turning to the bus, on the evening
23 you arrested Ms. Ramos-Burciaga, the bus that you were working
24 with scheduled to arrive at 9:35 P.M.?

25 A. It changes throughout the year, a few minutes. I believe

1 it was probably -- that's pretty accurate. Maybe five minutes
2 later or five minutes earlier.

3 Q. In the suppression hearing at Page 7, you testified that
4 the bus was scheduled to arrive at 9:35 P.M. Do you have any
5 reason to change that now?

6 A. No. All I'm stating is that sometimes they change the
7 minutes certain times of the year, and I don't remember. The
8 suppression hearing was a while back.

9 Q. But if you testified to it before under oath, you'd say
10 that's a fair estimation of what you thought it was then?

11 A. Yes, sir.

12 Q. And you testified earlier that the bus was scheduled to
13 depart at 11:15 P.M.; is that right?

14 A. I believe that's probably accurate.

15 Q. And when you say the bus was scheduled to depart, that's
16 Bus 1342?

17 A. Yes, sir, that's correct.

18 Q. That's not the bus that Ms. Ramos-Burciaga was scheduled
19 to depart on?

20 A. No. She was going north, so she would be on a different
21 bus.

22 Q. And that bus departed at 2:25 in the morning; is that
23 right?

24 A. I'm not exactly sure. It is early morning.

25 Q. The list that we have in front of us tells us the time

1 that the bus was supposed to depart; right?

2 A. It does say 2:25, yes.

3 Q. And so according to the list, that's when the bus that

4 Ms. Ramos-Burciaga was leaving on was going to depart?

5 A. Was scheduled to depart, yes, sir.

6 Q. And you had no reason to think that's wrong; right?

7 A. Not unless the bus was late. I don't think we stayed

8 there that long.

9 Q. So you'd agree that between 9:35 when the bus was meant to

10 come in and you testified it was supposed to arrive, and 2:25

11 in the morning, that's over four hours?

12 A. I believe so, yes, sir.

13 Q. So based on the schedule that you had, you expected

14 Ms. Ramos-Burciaga to be waiting in the Greyhound station for

15 over four hours?

16 A. I expected her to be waiting to board that bus, but she

17 could have went outside, or went to a restaurant, or went

18 anywhere. I can't say that I believed that she was going to be

19 waiting inside, no.

20 Q. When you saw her inside the Greyhound station, as you did,

21 you understood that she wouldn't be leaving until her bus was

22 going to depart; is that right?

23 A. I didn't know who she was until I spoke with her, and then

24 I knew that she was scheduled -- that the passenger was

25 scheduled to leave at 2:25.

1 Q. And just based on the schedule, Dulce Ramos, the person
2 who you said you wanted to talk to, was going to have a layover
3 of over four hours? You'd agree with that?

4 A. Yes.

5 Q. When you were asked about this on direct some time ago,
6 you said the first time you observed Ms. Ramos-Burciaga is when
7 she walked off the bus that had just arrived in Albuquerque.

8 A. Yes, sir, that's correct.

9 Q. And you watched her take baggage off the bus?

10 A. Yes, sir, I did.

11 Q. And you saw her walk towards the Greyhound station?

12 A. I don't remember my exact testimony. I haven't prepared
13 all what I did that day for this hearing because I didn't
14 believe we were going to be talking about everything that I did
15 with Ms. Ramos. So I saw her get off the bus, and I do
16 remember her going towards the station, yes, sir.

17 Q. And then you testified that you stood and watched other
18 passengers. Do you recall that?

19 A. I do not remember that.

20 Q. Well, do you recall what you did that night after you saw
21 Ms. Ramos-Burciaga go towards the Greyhound station?

22 MS. LONG: Your Honor, at this point I'm going to
23 object. I'm trying to not be an obstructionist. I believe
24 that the limited scope of this hearing is to allow defense
25 counsel to cross-examine Agent Perry as to the list and his use

1 of the list, and the representations that Agent Perry made to
2 our office about the list. At this point, I feel like we're
3 going beyond that and getting back into issues and testimony
4 that Agent Perry already testified to at the suppression
5 hearing.

6 MR. FERNANDEZ: Your Honor, it was represented that
7 the reason he didn't talk to anyone else was because,
8 essentially, he didn't have time, that he approached
9 Ms. Ramos-Burciaga and that he was busy arresting her and
10 that's why he didn't talk to anyone else.

11 Until I got the list, I didn't know that there were
12 at least two other people, possibly seven other people that he
13 was actually interested -- arguably as interested in talking to
14 as Ms. Dulce Ramos, and I'm trying to now, for the first time,
15 now that I know that for the first time, get at why, while he
16 was, as he testified, standing and watching other passengers,
17 why he felt he couldn't approach Jimmy Moon, Teresa Byron, Mary
18 Terry, George Brown and so on. That's information I was never
19 privy to until I got the list.

20 MS. LONG: Your Honor, I don't think it's relevant.
21 what we know is that he went up and he arrested
22 Ms. Ramos-Burciaga, and you have the testimony before you that
23 he was busy then bringing her to DEA and processing her. So
24 there was no opportunity to talk to anyone else. I don't
25 really see this line of questioning being particularly relevant

1 to the suppression issues before Your Honor.

2 MR. FERNANDEZ: Well, certainly after she was
3 arrested, he didn't have additional time. But what this
4 establishes is that there was at least a four-hour layover, he
5 was standing and watching other passengers --

6 THE COURT: He wasn't there for four hours. After he
7 arrested your client, he took her to the DEA station.

8 MR. FERNANDEZ: Right. So anything after he arrested
9 her, I understand. He was busy. But when he testified
10 originally, he said -- and this is in the suppression hearing,
11 Page 10, on direct. Not on cross. "What were you doing after
12 you saw Ms. Ramos-Burciaga go into the Greyhound station? I
13 stood and watched other passengers." That, to me, is an
14 opportunity to talk to the other passengers that he said he had
15 no chance to talk to.

16 Now, until I got this list, I wasn't privy to the
17 fact that he did, indeed, have other passengers that he wanted
18 to talk to, and so now his credibility is at issue.

19 THE COURT: I guess I'm not following. Had he not
20 moved to encounter your client, then obviously he was in a
21 position to talk to somebody else. But what's the point? He
22 didn't do that.

23 MR. FERNANDEZ: The point is that his credibility is
24 at issue. Whether he, in fact, had as much interest, or he
25 wanted to talk to these other people, or as I've always said,

1 he had a singular interest in Ms. Dulce Ramos for reasons that
2 fall outside the list.

3 Now we have the list and it indicates that there are
4 at least eight other people in the same position as Ms. Dulce
5 Ramos. And although he had the time, he didn't approach them.
6 That undermines his testimony that that was, indeed, his
7 interest that night.

8 THE COURT: Say it again.

9 MR. FERNANDEZ: My position has always been that it's
10 not true that the only reason he approached Dulce Ramos was
11 because of the list.

12 THE COURT: If you're talking -- what's the theory
13 you came up with? Dual something?

14 MR. FERNANDEZ: Parallel construction.

15 THE COURT: I'm not interested -- you know, you can
16 take that up to the Circuit. I'll give you a standing
17 objection. But I'm not going there on that. Period. End of
18 discussion. So, what's the relevance of this?

19 MR. FERNANDEZ: Credibility. Whether or not him
20 saying the reason he didn't go up to the other people is that
21 he didn't have the time.

22 THE COURT: Well, he didn't have the time because
23 he's with your client.

24 MR. FERNANDEZ: Only after he approached her. I'm
25 establishing there's time before he approached her.

1 THE COURT: How many -- the approximate time from
2 when you saw the Defendant get off the bus until you
3 approached, what would you estimate that time to be, if you can
4 recall?

5 THE WITNESS: I can't recall. I think I went into
6 the station once and I saw her sitting down, and then went back
7 out of the station and then went back in. Your Honor, I'm not
8 exactly sure how long it was from the time she got off the bus
9 to when I first approached her.

10 THE COURT: So what's the point you're making?

11 MR. FERNANDEZ: That he wasn't actually interested in
12 speaking to other passengers, as he testified he was. Because
13 if he was actually interested in the other passengers, he had
14 ample opportunity before he approached Ms. Ramos-Burciaga.

15 THE COURT: Then why don't you ask the question like
16 that, and let's move on. State that specific question.

17 BY MR. FERNANDEZ:

18 Q. Why didn't you use the time before you approached
19 Ms. Ramos-Burciaga to talk to the other passengers that you
20 said you wanted to talk to?

21 A. Because I was observing the passengers. Those passengers
22 were getting back on the bus, some of them. I don't know. I
23 don't speak with the passengers that are getting back on the
24 bus. I do that for a reason. So I can only talk to one person
25 at a time. So I wanted to watch all the other passengers get

1 off the bus and observe what they were doing, and then I talked
2 to Ms. Ramos. So I decided to speak with her.

3 Q. why didn't you decide to do what you normally do?

4 A. That is what I normally do.

5 Q. You said you normally get on the bus and talk to all the
6 passengers.

7 A. Yes, because the bus was going to be here until 11:15, and
8 I had an hour and however long that is to wait for the bus. So
9 I decided to talk to Ms. Ramos waiting for those passengers to
10 get back on the bus.

11 Q. So you didn't approach any of the other people that you
12 wanted to talk to in the time before you spoke to
13 Ms. Ramos-Burciaga because, why?

14 A. I don't understand what you mean by, that I wanted to talk
15 to. I wanted to talk to everybody on the bus. This list is
16 just a list. It doesn't mean that they have drugs. I don't
17 know that. There could be somebody on this list that had drugs
18 that wasn't one of the ones that was underlined. So I don't
19 know that until I speak with them.

20 Q. why didn't you attempt to talk to any of the ones that
21 were underlined?

22 MS. LONG: Your Honor, asked and answered.

23 THE COURT: It may have been, but go ahead and answer
24 the question.

25 A. I was interested in a passenger that ended up being

1 Ms. Ramos that was transferring buses. These other passengers
2 that were underlined aren't transferring buses. They're
3 getting back on the same bus. So I wait until they get back on
4 the bus. I didn't know who they were.

5 I wanted to see if Ms. Ramos was the passenger that was
6 going to Denver, which I did and confirmed that, and then I did
7 my encounter with her. If Ms. Ramos hadn't had any drugs with
8 her, I would have got on the bus and talked to all the other
9 passengers like I normally do. That's what I normally do.

10 BY MR. FERNANDEZ:

11 Q. On January 3rd, 2018, in the conversation with AUSA
12 Armijo that we've referenced before, the topic of pre-searching
13 came up. Do you recall that?

14 MS. LONG: Your Honor, I'll just object before he can
15 answer. In terms of the pre-search issue and where I
16 anticipate this going, Ms. Ramos-Burciaga had her bags with
17 her, and so there's no concern or question in this case as to
18 whether or not Agent Perry could have pre-searched the bag
19 before. I believe that was a part of this Court's ruling in
20 reopening the suppression hearing. This is way beyond the
21 limited purpose of the suppression hearing, and I would ask
22 that the Court direct that no questions related to that topic
23 be asked.

24 THE COURT: I agree on that, so the objection is
25 sustained.

1 MR. FERNANDEZ: Your Honor, may I respond to that,
2 briefly?

3 THE COURT: You can respond, but I'm sustaining the
4 objection. Go ahead and state whatever you want for the
5 record.

6 MR. FERNANDEZ: The issue is that pre-search was
7 listed three times in the handwritten notes by AUSA Armijo, and
8 they were written in the same conversation regarding the
9 discovery issue that produced the issue of the passenger list.
10 Your Honor opened the hearing for three reasons: For the
11 passenger list; the issues regarding why the passenger list
12 wasn't produced earlier; and as Your Honor repeated at least
13 twice in your ruling, the bearing those issues had on Agent
14 Perry's credibility.

15 The issue of pre-search goes to the credibility. If
16 Agent Perry acknowledges that he pre-searches bags routinely,
17 as I would argue the notes show, that goes to his credibility
18 regarding the activities he's willing to engage in, whether
19 they're generally lawful, and whether his testimony should be
20 viewed in that light.

21 THE COURT: Ms. Dulce Ramos-Burciaga's bags went with
22 her; correct?

23 MR. FERNANDEZ: Right. And in the conversation -- I
24 agree. I'm not alleging that he pre-searched
25 Ms. Ramos-Burciaga. His explanation to AUSA Armijo as to why

1 he did not pre-search Ms. Dulce Ramos is because he said he
2 didn't have access, he didn't have a chance, suggesting that if
3 he did have a chance, or if he did have access, he would have,
4 and that's the problem.

5 MS. LONG: Your Honor, if I may, AUSA Armijo's notes
6 on this topic are actually not -- first of all, they're not
7 Agent Perry's statements, they are AUSA Armijo's shorthand.
8 This is the same allegation that I think Mr. Fernandez's
9 co-worker, John Robbenhaar, raised in another separate case
10 before Judge Parker, who denied this even when the question of
11 whether or not he "pre-searches" a bag came up. And in that
12 case where it actually was an issue, even though it's not an
13 issue in this case, as was explained, Agent Perry was saying,
14 you know, they always accuse me of pre-searching a bag, and in
15 this case I wouldn't even have had an opportunity to
16 pre-search, which he does not do, because she had the bag with
17 her.

18 So it's taken out of context, it's irrelevant, and
19 it's not a part of the limited purpose of this hearing. So we
20 don't think any questions related to that topic should be
21 allowed.

22 THE COURT: The issue of pre-search is not relevant
23 in this case because the Defendant took the bag off the bus.
24 The objection is sustained. Let's move on.

25 MR. FERNANDEZ: would it be okay for me to ask

1 whether or not he looked at other baggage on the bus that
2 evening? Could I go into that area?

3 MS. LONG: Your Honor, I don't think that's relevant.

4 THE COURT: It's not relevant. The objection is
5 sustained. How could he if he was with your client? He said
6 he didn't get back on the bus.

7 MR. FERNANDEZ: He said he didn't recall what he did
8 when he left, but he said there was at least two moments. He
9 saw her, she went in, he went in with her at some point to see
10 her, and then he left.

11 THE COURT: We're getting way far afield. No, let's
12 stick to what this hearing is about.

13 MR. FERNANDEZ: It was mentioned that it was out of
14 context. Could I ask him to give the context, if he had the
15 chance to pre-search?

16 THE COURT: I've ruled. Let's move on.

17 MR. FERNANDEZ: I have no further questions, Your
18 Honor.

19 THE COURT: Let me ask a couple, because that may
20 prompt some questions from counsel.

21 Just so I'm clear -- it's funny. I thought the CA --
22 if I had to guess, I was going to guess California. But CA on
23 here stands for cash?

24 THE WITNESS: That's correct, Your Honor.

25 THE COURT: Now, what does -- the term RI means

1 reissue. I want to make -- I'm not sure I'm clear on that.

2 THE WITNESS: Yes, sir. If you purchase a ticket to,
3 say, travel today at 4:00 P.M., and you decide you're not going
4 to travel today -- you've already purchased the ticket, and
5 then you decide you want to leave tomorrow at 4:00 P.M. You
6 can get your ticket reissued and pay like a \$15 or \$20 fee. So
7 that means that the ticket -- RI means to reissue.

8 THE COURT: All right. But what interests you in
9 tickets that are reissued?

10 THE WITNESS: Because sometimes people, from my
11 experience, people that I've arrested that didn't pay cash --
12 I've arrested numerous people that have had their tickets
13 reissued, and the significance of that is that sometimes people
14 that are transporting illegal narcotics, the illegal narcotics
15 aren't available when they're scheduled.

16 In other words, say I'm going to have you -- you're
17 going to transport drugs for me, and I say, go buy your ticket,
18 you're going to leave at 4:00 today. Then at 4:00, I don't
19 have the drugs available to give you, so then I say, go buy
20 your ticket for tomorrow and I'll have the drugs for you. So
21 that ticket's reissued. That's significant to me because of my
22 experience of the people that I've arrested that have had their
23 ticket reissued.

24 THE COURT: Now, in answers to some questions of
25 Mr. Fernandez about, you know, Flagstaff, you made the comment

1 you weren't interested in anybody getting on the bus in
2 Flagstaff. why is that?

3 THE WITNESS: well, sometimes -- generally Flagstaff
4 is not an origination point for illegal narcotics. But I have
5 asked to have that list, and I believe probably my confidential
6 source just didn't send it on this date. what happens is,
7 there's a bus that comes in from Las Vegas, Nevada, that they
8 make a connection in Flagstaff. Sometimes I will get that
9 list, and I believe on this date I just didn't get it.

10 THE COURT: So in terms of the lists you're
11 interested in, as far as origination, is that based on your
12 training and experience on where in your view narcotics
13 traffickers originate, or where -- I don't know if I'm using
14 the right terminology.

15 THE WITNESS: That's correct, where they board the
16 bus in their source cities, and then how they purchase their
17 tickets.

18 THE COURT: Now, these two lists that we were looking
19 at, one is Glen date and one is Phoenix. Based on your
20 training and experience, are those, Glendale and Phoenix,
21 source cities?

22 THE WITNESS: Definitely. That's probably the most
23 people that I've arrested off the bus, have come from Phoenix
24 and Glendale.

25 THE COURT: Now, you indicated, again, on this list,

1 regarding where Ms. Ramos-Burciaga's name appears, that there
2 was -- I believe the final destination was Denver?

3 THE WITNESS: Yes, sir.

4 THE COURT: Based on your training and experience,
5 what's significant about Denver?

6 THE WITNESS: Definitely a destination city for
7 illegal narcotics, and I've arrested numerous people traveling
8 to Denver, Colorado, with illegal narcotics.

9 THE COURT: Okay. Any questions in light of mine?

10 MR. FERNANDEZ: Just one.

11 FURTHER CROSS-EXAMINATION

12 BY MR. FERNANDEZ:

13 Q. Oklahoma City, New York, Kansas City, Washington, D.C.,
14 and Nashville are also destination cities for illegal
15 narcotics; right?

16 A. Any city can be a destination city. I'm going from my
17 experience and the amount of people I've arrested. I would
18 strike Washington, D.C. and Nashville off that list. Those
19 other ones would be people that I would -- they would be some
20 cities that I'd be interested in, yes.

21 Q. So Kansas City and Oklahoma City would be on the list?

22 A. Yes. But it's just a name and it's just a list. That
23 doesn't mean that person has drugs, it just means that it's
24 somebody that I'm interested in speaking with, other than all
25 the other normal people on the bus. It just gives me knowledge

1 of the people that are on the bus. That's all it does.

2 MR. FERNANDEZ: No further questions.

3 THE COURT: Ms. Long, do you have any questions?

4 MS. LONG: Very briefly, Your Honor. Thank you.

5 REDIRECT EXAMINATION

6 BY MS. LONG:

7 Q. Briefly, Agent Perry, on cross-examination you were asked
8 a series of questions related to your testimony at the
9 suppression hearing where you had testified that the only thing
10 that you obtained from a confidential source was the bus
11 itinerary or list. Do you remember that?

12 A. Yes, sir -- I mean, yes, ma'am. I'm sorry.

13 Q. That's okay. I can be very strong-willed.

14 And so do you also recall the questions where you were
15 asked why you didn't think to clarify that there was
16 handwriting on those lists; is that correct? Do you recall
17 those?

18 A. Yes, I do remember that question.

19 Q. Now, in terms of that testimony, I want to put it a little
20 bit in context. Do you recall that at the suppression hearing,
21 Mr. Fernandez had asked you about this concept of parallel
22 construction?

23 MR. FERNANDEZ: Your Honor, objection. If I can't go
24 into it --

25 THE COURT: well, yes, I just told him he couldn't go

1 into it, so why are you going into it?

2 MS. LONG: Your Honor, I just want to clarify that
3 Agent Perry's answer that he only received the list was in the
4 context of, he didn't receive information from anyone else. I
5 feel like for purposes of redirect, if this was a normal
6 hearing, I'm trying to allow Agent Perry to further explain
7 that his answer of, I only got the list, was in the context of,
8 I didn't have other information from other sources, not that --
9 I believe Agent Perry testified that in his mind, the list is
10 the list and the handwriting, so perhaps it's unnecessary.
11 That's all I'm trying to elicit.

12 THE COURT: Well, I know, but then Mr. Fernandez is
13 going to get up on recross and go into this parallel
14 construction. So I'm going to sustain Mr. Fernandez's
15 objection.

16 MS. LONG: That's fair enough.

17 BY MS. LONG:

18 Q. Just so we're clear, though, when you testified that the
19 only thing you got was the list, what does the list mean to
20 you, when you testified to that?

21 A. These two documents that I'm holding in my hand that we've
22 been discussing since we've been here.

23 Q. Okay. And does that include the handwriting, as well?

24 A. Yes, of course.

25 Q. Now, in terms of the cities that are marked, and I believe

1 the Court asked the questions that I was going to ask, but I
2 just want to make sure we're clear, why are the certain cities
3 that are handwritten on here, in terms of origination cities,
4 why are those cities the ones that the CS included?

5 A. Because those are the ones that paid cash or had their
6 tickets reissued. I want to know what cities they originate
7 in, and that list doesn't show what cities they originated in.

8 Q. Okay. Now, going back to just generally your use of this
9 list, have you approached and talked to people that have been
10 flagged on the list, say because they paid cash or because of
11 tickets that were reissued, where you did not encounter
12 narcotics?

13 A. Yes, on numerous occasions.

14 Q. And have you spoken with passengers in the context of
15 speaking with all passengers on the bus that were not flagged
16 on this list that did, in fact, have narcotics?

17 A. Yes. Also, on numerous occasions.

18 Q. So is there anything about this list that leads you to
19 conclude, just looking at the list, this person definitely has
20 or does not have narcotics?

21 A. No, none whatsoever.

22 Q. In terms of -- you were asked questions about the
23 passenger list and your conversations with AUSA Armijo. Do you
24 recall those questions?

25 A. Yes, ma'am.

1 Q. Did you have an opportunity to review the documents that
2 Greyhound had provided the Court prior to your testimony at the
3 suppression hearing?

4 A. If you're talking about the --

5 THE COURT: Are you referencing what Greyhound
6 responded to on the Rule 17(c) Subpoena?

7 MS. LONG: That's correct.

8 A. That was going to be my question. Yes, I reviewed those.

9 BY MS. LONG:

10 Q. So after --

11 A. Yes.

12 Q. -- after the suppression hearing? But when you went into
13 the suppression hearing, were you made aware by AUSA Armijo
14 that Greyhound had provided documents to the Court?

15 A. No, I don't believe so.

16 MS. LONG: No further questions. Thank you.

17 THE COURT: Is there any recross?

18 MR. FERNANDEZ: Yes, Your Honor.

19 RECROSS-EXAMINATION

20 BY MR. FERNANDEZ:

21 Q. You said you've arrested a number of people who were not
22 flagged on the passenger lists?

23 A. Ms. Long said flagged. That's not like marked as cash or
24 reissued. That's what I believe she meant by flagged. So,
25 yes, I've arrested numerous people on the bus that's not, as

1 you termed, flagged.

2 Q. And in those cases, why did you encounter them or talk to
3 them?

4 A. Because they were sitting on the bus. As I testified
5 earlier, this is a list. I still get on the bus and talk to
6 everyone, unless we arrest someone and I can't do that.

7 Q. I'm sorry; what can't you do? I actually didn't follow.

8 THE COURT: what he's saying is, he tries to talk to
9 someone, but if he ends up having to arrest them, then he can't
10 talk to the other people.

11 MR. FERNANDEZ: Oh, I see.

12 BY MR. FERNANDEZ:

13 Q. Is that what you --

14 A. Yes. Basically, yes, sir.

15 Q. Now, you were asked just now whether or not you were told
16 about the documents in response to the 17(c) subpoena before
17 you testified last time, and you said you didn't, you weren't.

18 A. I saw them at some time. I don't know if it was at the
19 hearing or when it was. I can't remember exactly when I've
20 seen those documents. But I don't believe it was before the
21 hearing.

22 Q. You had no reason to believe that AUSA Armijo had the list
23 that you said you no longer had; right?

24 A. I don't really understand your question. You're talking
25 about this list?

1 Q. Yes.

2 A. I don't know if AUSA Armijo had that list. I don't know
3 how he would have obtained it, so I don't believe he had that
4 list, no.

5 MR. FERNANDEZ: Okay. No further questions.

6 THE COURT: All right. You may step down.

7 THE WITNESS: Thank you.

8 MS. LONG: Your Honor, just while we're here today, I
9 tracked down that we did have the Grand Jury testimony
10 transcribed. I don't know if it was produced. I accept
11 Mr. Fernandez's representation. If he doesn't have it, he
12 doesn't have it. I reviewed it on my phone, and I didn't see
13 anything that came within what we're here for today, in terms
14 of what we've discussed, and I will provide a copy of that to
15 Mr. Fernandez.

16 THE COURT: Okay. What's the next -- I'm sure that
17 counsel attribute different significance to the testimony, but
18 what do you want to do? Do you want to follow-up with some
19 kind of a written closing, in terms of where we go from here?

20 MR. FERNANDEZ: I'm happy to submit whatever
21 additional argument on this hearing, Your Honor, in writing.

22 THE COURT: In other words, I was going to say,
23 submit whatever you believe is significant in terms of what I
24 should or shouldn't do, and then -- but I would wait and do it
25 after you've had a chance to look at that Grand Jury testimony

1 she's going to provide. And then if there's something
2 significant in there, I guess flag it, and then Ms. Long, you
3 can respond, and then I'll give Mr. Fernandez the last word on
4 it. Is that acceptable?

5 MS. LONG: Yes, Your Honor.

6 THE COURT: How much time -- you're going to get that
7 testimony to him pretty soon; right?

8 MS. LONG: Yes, Your Honor.

9 THE COURT: Then how much time do you want? Are you
10 all going to want this transcribed?

11 MR. FERNANDEZ: Yes.

12 THE COURT: So from the time you receive the
13 transcript, how long do you want?

14 MR. FERNANDEZ: I think I could do that, review that
15 in a week. And then in order to get the transcript of today's
16 hearing and submit arguments would be maybe an additional two
17 weeks -- excuse me. Two weeks after I receive the transcript.

18 THE COURT: So you want two weeks from after you
19 receive the transcript. Can you then respond in a week?

20 MS. LONG: Yes, Your Honor.

21 THE COURT: And then I'll give you a week to reply.

22 MR. FERNANDEZ: That works.

23 THE COURT: And then I'll issue an order. Is that
24 acceptable to everyone?

25 MS. LONG: Yes, Your Honor.

1 THE COURT: Okay. Is there anything else, then,
2 today we need to take up?

3 MS. LONG: Your Honor, briefly, we're set for a trial
4 in this matter on April 1st. I know in speaking with your
5 Courtroom Deputy that because of ongoing litigation, you
6 haven't required Motions to Continue, but I just wanted to make
7 sure that we're on the same page in terms of that trial
8 setting.

9 MR. FERNANDEZ: It's my understanding, Your Honor,
10 that any pending litigation initiated by myself would waive
11 speedy trial.

12 THE COURT: It does, so it would make sense, it seems
13 to me, to vacate the April 1st setting. It was on a trailing
14 docket. There's no objection to that?

15 MR. FERNANDEZ: No objection.

16 MS. LONG: No objection, Your Honor.

17 THE COURT: I think, then, what I need to do is as
18 soon as we have the written submissions on this case, based on
19 what I rule, then we'll set a pretrial conference and figure
20 out where we go from there.

21 MS. LONG: Yes, Your Honor.

22 THE COURT: All right. We'll be in recess. Thank
23 you.

24 (Proceedings adjourned at 4:45 P.M.)

25 * * * * *

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DULCE ISABEL
RAMOS-BURCIAGA,

Defendant.

No. 1:17-CR-02236-WJ

REOPENED SUPPRESSION HEARING

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the stenographically reported proceedings held in the
above-entitled matter on Wednesday, March 13, 2019, and that
the transcript page format is in conformance with the
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Dated this 28th day of March, 2019.

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